

No. 21-2017

**In the
United States Court of Appeals
for the Fourth Circuit**

MARYLAND SHALL ISSUE, et al.,

Plaintiffs-Appellants,

v.

LAWRENCE HOGAN, et al.,

Defendants-Appellees.

**Appeal from the United States District Court
for the District of Maryland
No. 1:16-cv-03311-ELH (Hon. Ellen L. Hollander)**

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*
FIREARMS POLICY COALITION, FPC ACTION FOUNDATION,
AND INDEPENDENCE INSTITUTE IN SUPPORT OF
APPELLANTS AND REVERSAL**

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Pursuant to Fed. R. App. P. 29(a)(2), Firearms Policy Coalition, FPC Action Foundation, and Independence Institute respectfully request leave to submit a brief as *amici curiae* in support of Appellants and reversal.

Amici provided notice to all parties' counsel of their intent to file this brief. The Appellants consented to the filing of the brief. The Appellees declined to take a position on whether to provide consent.

(A) The movants' interests.

Firearms Policy Coalition (FPC) is a 501(c)(4) nonprofit membership organization with members and supporters throughout the country, including throughout this Court's jurisdiction. FPC's mission is to protect the Constitution of the United States, with a special emphasis on the Second Amendment. FPC serves its members and the public through direct legislative advocacy, grassroots advocacy, legal efforts, research, education, operation of a hotline, and other programs.

FPC Action Foundation (FPCAF) is a 501(c)(3) nonprofit organization that serves its members and the public through charitable programs including research, education, and legal efforts, with a focus on the Second Amendment and other constitutional rights.

Independence Institute was founded in 1985, dedicated to the eternal truths of the Declaration of Independence. The Institute is a nonprofit, nonpartisan 501(c)(3) educational organization. The Institute has long been a nationally recognized research center on firearms law and policy. The scholarship and briefs of the Institute's Research Director, David Kopel, have been cited by the United States Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570, 700–01, 710 (2008) (Breyer, J., dissenting); *McDonald v. Chicago*, 561 U.S. 742, 751 n.2 (2010) (opinion of the Court); *id.* at 888 n.31, 903 (Stevens, J., dissenting); and *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111, 2133 (2022).

Kopel's scholarship and briefs have also been cited by 24 cases in the federal Circuit Courts of Appeals, including by then-Judge Kavanaugh. *Heller v. District of Columbia* (Heller II), 670 F.3d 1244, 1287 (D.C. Cir. 2011) (Kavanaugh, J., dissenting) (citing Johnson, Kopel, Mocsary & O'Shea, *Firearms Law and the Second Amendment* textbook). And by the highest courts of California, Connecticut, the District of Columbia, Delaware, Hawaii, Illinois, New Hampshire, Oregon, Rhode Island, Texas, Vermont, Washington, Wisconsin, and Wyoming.

The Seventh Circuit commended his scholarship as showing the proper model of “originalist interpretive method as applied to the Second Amendment.” *Ezell v. City of Chicago*, 651 F.3d 684, 702 n.11 (7th Cir. 2011). Since 2010, Kopel has been an adjunct professor of constitutional law at the University of Denver, Sturm College of Law. Among the courses he teaches are State Constitutional Law, First Amendment, and Second Amendment.

Amici frequently litigate and file *amicus* briefs in Second Amendment cases. As organizations regularly involved in Second Amendment litigation, they provide expert knowledge on the original meaning of the Second Amendment, what constitutes a burden on Second Amendment rights, and what the government must prove to justify such burdens. As organizations dedicated to preserving the Second Amendment, *Amici* have an interest in this case because it goes to the heart of the fundamental right of the people to keep arms for self-defense. Additionally, the constitutional rights of *amici* organizations’ members who reside within this Court’s jurisdiction will be directly affected by the holding in this case.

(B) Why the amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

Amici respectfully submit that they offer unique perspectives and knowledge that will assist the Court beyond the insight the parties have provided. Each section of the proposed brief offers distinct arguments, research, or analyses that will not otherwise be presented to the Court.

Specifically, in this brief, *Amici* provide complete historical analyses of licensing and training requirements for firearm possession. *Amici* describe all known laws for licensing of firearm possession from the earliest colonial days to the end of the nineteenth century. *Amici* also describe all colonial and founding-era laws that required training, required firearm ownership without training, and required firearm ownership while expressly exempting the firearm owners from training. The history presented in the proposed brief will be helpful to this Court because the present standard for applying the Second Amendment is a test based on the Amendment's text, as informed by history.

Amici respectfully request that the Court grant leave to file their *amici curiae* brief in support of Appellants and reversal.

Dated: August 10, 2022

Respectfully submitted,

/s/ Joseph G.S. Greenlee
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CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 722 words.

This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the typestyle requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in 14-point, proportionally spaced Century Schoolbook font.

Dated this 10th day of August 2022.

*/s/ Joseph G.S. Greenlee
Counsel for Amici Curiae*

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2022, I filed the foregoing motion with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to all registered CM/ECF users.

Dated this 10th day of August 2022.

*/s/ Joseph G.S. Greenlee
Counsel for Amici Curiae*